
DIGEST

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HB 296 Engrossed

2015 Regular Session

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Abstract: Provides an exception to the Public Records Law for certain records of the Board of Ethics and for the expungement of records relative to ethics code enforcement under certain circumstances and pursuant to certain procedures.

Present law (Code of Governmental Ethics, R.S. 42:1101 et seq.) provides ethical standards for public officials and employees and certain other persons, including prohibited conflicts of interest involving payments from nonpublic sources, prohibited participation in transactions, prohibited contractual arrangements, prohibited gifts, abuse of office, nepotism, financial disclosure, and post public service restrictions. Provides for exceptions.

Present law provides for the Board of Ethics and the Ethics Adjudicatory Board. Provides for the composition and the powers and duties of each board. Provides that the ethics board receives complaints, conducts investigations concerning alleged violations of laws within its jurisdiction (including the Code of Governmental Ethics), and issues charges based on such alleged violations. Provides that the adjudicatory board conducts hearings on the charges to determine whether a violation has in fact occurred and, if a violation has occurred, determines what penalties or other sanctions should be imposed.

Present law (Public Records Law, R.S. 44:1 et seq.) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Establishes a framework for the ready availability of public records to requesting persons, and specifically provides that it is the duty of the custodian of the public records for a public entity or agency to provide copies to persons so requesting.

Present law provides for certain exceptions, exemptions, and limitations. Specifies that any exception, exemption, or limitation to the laws pertaining to public records not provided for in the Public Records Law or in the constitution shall have no effect.

Present law (R.S. 42:1141.4 - Code of Governmental Ethics) provides that the records of the Board of Ethics prepared or obtained in connection with investigations and private hearings conducted by the board, including all extracts of minutes and votes to take any matter under consideration in connection therewith, shall be deemed confidential and privileged, except that such records shall be available to each member of the board. Further specifies that except as provided in this provision of present law and in a provision of present law relative to certain transactional disclosure reports, all records, including the results and conclusions reached in connection with any investigation or hearing, shall be public.

Proposed law provides an additional exception to present law (Public Records Law) for records, or the information contained therein, held by the Board of Ethics pertaining to enforcement proceedings. Provides, however, that any such record shall be public record and subject to the provisions of present law when introduced as evidence before the Ethics Adjudicatory Board or a court or when the enforcement proceedings are concluded, subject to the limitations in present law (R.S. 42:1141.4).

In addition, proposed law provides that a person may request expungement of ethics enforcement records relative to a complaint filed with the Board of Ethics alleging that the person violated one or more provisions of present law (Code of Governmental Ethics) if each of the following requirements is satisfied:

- (1) The allegations in the complaint involved the person's status as a public employee.
- (2) The person was a public employee solely because of his uncompensated service on a board or commission.
- (3) The Board of Ethics issued charges based on the complaint that, at the conclusion of enforcement proceedings, did not result in a finding of a violation of present law (Code of Governmental Ethics).

Provides, however, that proposed law does not apply to enforcement proceedings that are concluded by consent opinion.

Proposed law provides requirements and procedures for expungement. Provides that if expungement is ordered, the Board of Ethics and the Ethics Adjudicatory Board shall remove from public access all ethics enforcement records that are ordered to be expunged. Provides, however, that the records shall not be destroyed. Provides that an expunged ethics enforcement record shall be privileged, confidential, no longer be considered a public record, and not be made available to any person or other entity, except that any such record shall be available to each member of the Board of Ethics and the Ethics Adjudicatory Board and to their respective staff members.

Proposed law provides further that all records and deliberations concerning a request for expungement shall be confidential and shall not be made available to any person or other entity, except that any such record shall be available to each member of the Board of Ethics and its staff.

(Amends R.S. 44:4.1(B)(28); Adds R.S. 42:1191-1194 and R.S. 44:3.4)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Provide that proposed provisions relative to expungement do not apply to enforcement proceedings that are concluded by consent opinion.